

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 03-0269P

Income Tax

Fiscal Year Ending September 30, 2001

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late penalty.

STATEMENT OF FACTS

The late penalty was assessed on the late filing of a “no activity” income tax return for the fiscal year 2001.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer argues the late penalty should be waived as no tax was due on the return. The taxpayer also states that the corporation is no longer in operation.

The Department points out that the State of Indiana's regulations require the filing of an income tax return for a tax year where there is no tax liability. The taxpayer was in operation during the fiscal year in which the penalty was assessed.

45 IAC 15-11-2(b) states, “Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness,

thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds no basis for waiver of the penalty. The taxpayer has failed to demonstrate the reasonable care and diligence which are required in overcoming the imposition of penalty under IC 6-8.1-10-2.1. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer’s penalty protest is denied.